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Review of the efficiency of the administrative and financial functioning of the United Nations

Programme budget for the biennium 2006-2007

Scale of assessments for the apportionment of the expenses of the United Nations

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Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Investing in the United Nations: for a stronger Organization worldwide: detailed report

Report of the Secretary-General

Updated terms of reference for the Independent Audit Advisory Committee

I. Introduction

1. The General Assembly, in its resolution 60/1 of 16 September 2005, requested the Secretary-General to submit detailed proposals on the creation of an independent oversight advisory committee, including its mandate, composition, selection process and qualification of experts (para. 164 (c)). In a report issued in response to that request, the Secretary-General set out proposed terms of reference for the Independent Audit Advisory Committee (see A/60/568, annex III).

2. In its resolution 60/248 of 23 December 2005, the General Assembly decided to establish the Independent Audit Advisory Committee to assist the Assembly in discharging its oversight responsibilities, and requested the Secretary-General to propose its terms of reference, ensure coherence with the outcome of the ongoing review of oversight and report to the Assembly at the second part of its resumed sixtieth session on related resource requirements. The terms of reference were

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accordingly submitted to the General Assembly by the Secretary-General in his report of 20 June 2006 (see A/60/846/Add.7).

3. Having considered the report of the Advisory Committee on Administrative and Budgetary Questions on the comprehensive review of governance and oversight within the United Nations and its funds, programmes and specialized agencies (see A/61/605), the General Assembly, in paragraph 3 of its resolution 61/245 of 22 December 2006, requested the Secretary-General to submit revised terms of reference for the Independent Audit Advisory Committee for consideration at the first part of its resumed sixty-first session.

4. The present report provides revised terms of reference for the Independent Audit Advisory Committee, arising from the recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions on the comprehensive review of governance and oversight within the United Nations and its funds, programmes and specialized agencies, including the outcome of further consultations with the Office of Internal Oversight Services and the Board of Auditors (as detailed in sect. III below).

II. Details of changes to the proposed terms of reference for the Independent Audit Advisory Committee

5. In its report, the Advisory Committee on Administrative and Budgetary Questions identified the importance of an early decision to put into effect the Independent Audit Advisory Committee and recommended that the Secretary-General, after consulting with the Board of Auditors[1] and the Office of Internal Oversight Services, submit revised terms of reference for the Independent Audit Advisory Committee to the General Assembly which reflect, inter alia, the following key points:

(a) The purely advisory role of the Independent Audit Advisory Committee, with no operational functions;

(b) The responsibility of the Independent Audit Advisory Committee to advise the General Assembly on issues it considers appropriate concerning the scope, content and outcome of the work of audit entities.

6. In addition, the Advisory Committee:

(a) Noted that the role of the Independent Audit Advisory Committee is to serve in an expert advisory capacity to assist the General Assembly in discharging its oversight function;

(b) Opined that a smaller Independent Audit Advisory Committee would allow for greater ease of decision-making and that it should be composed of 5 members rather than 10;

(c) Underscored the importance of clear and verifiable qualifications and recommended that the General Assembly develop procedures to verify the qualifications of prospective members;

[1] Financial regulation 7.6 reads as follows: "The Board of Auditors shall be completely independent and solely responsible for the conduct of the audit".

(d) Reiterated that the autonomy of the secretariat of the Independent Audit Advisory Committee (like those of the secretariats of the Advisory Committee on Administrative and Budgetary Questions, the International Civil Service Commission and the Board of Auditors) should be ensured;

(e) Saw merit in the procedure whereby the Independent Audit Advisory Committee would undertake an expert technical review of the oversight budget and advise the General Assembly through the Advisory Committee of its findings and recommendations, in order to preserve the integrity of the budget review process.

7. The above-mentioned issues have been addressed fully in the attached terms of reference. Particular emphasis is drawn to the advisory nature of the Independent Audit Advisory Committee to the General Assembly, as set out in paragraph 1 of the terms of reference, and the requirement that Committee members have an understanding of the terms of reference governing the role of the Board of Auditors, in recognition of their independence (see annex, appendix, para. 4).

III. Consultation process and comments received

8. The terms of reference provided in the annex are the result of consultations undertaken with the Office of Internal Oversight Services and the Board of Auditors, as requested by the Advisory Committee on Administrative and Budgetary Questions in paragraph 50 of its report. Following extensive consultations with the Office of Internal Oversight Services and the Board of Auditors, numerous changes were made to the terms of reference in order to reflect the comments provided. As a result, some selectiveness has been necessary to maintain the integrity of the tasks of the Committee.

9. The Office of Internal Oversight Services is in agreement with the provisions in the draft terms of reference that have direct implications for the Office. In her comments, the Under Secretary-General for Internal Oversight Services reiterated the previous comments made by the Office of Internal Oversight Services regarding the critical importance of the members of the Committee, in particular their expertise. The Board of Auditors also provided comments on the terms of reference, many of which are reflected in the text. The Board of Auditors stated that it would continue to seek clarification with regard to the risk of overlapping functions between the Independent Audit Advisory Committee and the Advisory Committee on Budgetary and Administrative Questions. Such duplication might indeed impair the completion of the activities of the Board of Auditors.

IV. Qualifications, experience and independence of members

10. The terms of reference have been further clarified and simplified with respect to qualifications and independence criteria. All members must be suitably qualified with recent and relevant senior-level financial, audit and oversight-related experience, preferably including experience of membership in an audit committee. Within the context of the Independent Audit Advisory Committee, such financial expertise may be further defined as follows:

(a) An understanding of financial statements and generally accepted accounting principles;

(b) An ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;

(c) Experience in preparing, auditing, analysing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues faced by the United Nations, or experience in actively supervising one or more persons engaged in such activities;

(d) An understanding of the inspection, evaluation and investigative processes;

(e) An understanding of internal controls, risk management and procedures for financial reporting.

11. With respect to independence, the detailed appendix contained in earlier versions of the terms of reference is replaced by the requirement that all members of the Committee must be independent of the Secretariat of the United Nations, of the Governments of Member States and of the Board of Auditors, and that members must also be free from any material relationship with the Secretariat. In satisfying this requirement, members shall not hold any position or engage in any activity which might be liable to — or appear to — impair their impartiality in the exercise of their functions.

V. Appointment process, terms and compensation

12. The contracts of appointment for members of the Committee should be of three years' duration and non-renewable. To facilitate the best practice policy of rotation, transitional arrangements shall apply for the initial appointments to the Committee, with three of the five initial members being provided with non-renewable contracts of three years' duration and the remaining two initial members provided with non-renewable contracts of four years' duration.

13. The appointment process for members of the Committee will involve the following three stages:

(a) The identification of candidates;

(b) The technical assessment of candidates against the criteria for membership;

(c) The selection of qualified candidates by the General Assembly.

14. To ensure a suitably broad pool of qualified candidates, a variety of channels shall be used to solicit applications. Applications may be received from individuals, by the recommendation of a national or regional professional accountancy, audit or oversight institution, and by nomination of a Member State. In so doing, the background and experience of all candidates must be related to the criteria for membership, as set out in the appendix to the attached terms of reference.

15. The resultant list of candidates shall then be assessed against the technical criteria for the position by an international independent professional organization with experience in such matters and with due regard to geographical representation. Such an expert technical review will ensure coherence with the recommendations of the Committee that procedures exist in order to verify the qualifications of

prospective members and the conclusions of the oversight review with respect to transparency of qualification requirements and appointment procedures.

16. The final compendium of 10 or more suitably qualified candidates, with appropriate geographical representation, shall then be subject to consideration and selection for the positions by the General Assembly. This may occur through an election process.

17. In terms of compensation for all members of the Independent Audit Advisory Committee, it is proposed that a fixed fee be provided to compensate members for their role on the Committee. Compensation is necessary to attract suitably qualified candidates from all geographical regions and to facilitate compliance with the requirement for independence.

VI. Resource requirements

18. The comprehensive review of oversight recommends that the members of the Independent Audit Advisory Committee be compensated. The report also recommends that the Committee have a small full-time secretariat support unit. The resource requirements described below are based on the assumption that the Committee will become operational in October 2007.

Resource requirements

(In thousands of United States dollars)

	Resources			*Posts*		
	2006-2007			*2006-2007*		
Category	*Estimate*	*Change*	*Total*	*Estimate*	*Change*	*Total*
Regular budget						
Post	—	68.2	68.2	—	3	3
Non-post	—	382.7	382.7	—	—	—
Total	—	**450.9**	**450.9**	—	**3**	**3**

19. The total resource requirements for three months in 2007 are estimated at $450,900. The amount of $68,200 would provide for three posts (1 D-1, 1 P-3 and 1 General Service (Other level)) to provide administrative and logistical support for the work of the Committee. In particular, the secretariat support unit would assist in the preparation of the Committee's quarterly meetings and provide support during and after the meetings. The support unit would also play a logistical liaison role among the Committee, the Office of Internal Oversight Services, the Board of Auditors, management, other oversight bodies and the General Assembly.

20. The estimated amount of $382,700 under non-post requirements would provide for (a) non-staff compensation ($26,600) for members of the Independent Audit Advisory Committee (at $25,700 per annum for the Chairman and $20,200 per annum for other members); (b) consultancy fees to assist in the establishment of the Committee ($50,000); (c) travel and subsistence allowance for expert members of the Committee for its quarterly meetings ($79,600); (d) a provision to reimburse

travel-related expenses incurred during the technical assessments of candidates ($110,000); and (e) general operating expenses ($116,500), including rental and alteration of office premises ($86,800), communications ($1,600), maintenance of office automation equipment (centrally provided network and software support) ($1,800), supplies and materials ($500) and acquisition of office furniture and office automation equipment ($25,800).

VII. Conclusion and recommendations

21. **The General Assembly may wish to take note of the present report and its annex, and to:**

(a) **Approve the terms of reference for the Independent Audit Advisory Committee, as set out in the annex to the present report, including its mandate, composition, selection process and qualification of experts, as explained above, and the associated resource requirements;**

(b) **Appropriate $354,200 under section 1, Overall policymaking, direction and coordination, $86,800 under section 28D, Office of Central Support Services, and $9,900 under section 35, Staff assessment, to be offset by a corresponding amount under income section 1, Income from staff assessment, of the programme budget for the biennium 2006-2007.**

Annex

Updated terms of reference for the Independent Audit Advisory Committee to the United Nations

Role

1. The Independent Audit Advisory Committee serves the General Assembly in an expert advisory capacity to assist it in fulfilling its oversight responsibilities. Its function is to provide technical advice on issues the General Assembly considers appropriate concerning the scope, content and outcome of the work of the entities that audit the Secretariat of the United Nations.

Functions

2. The tasks of the Committee are, inter alia:

General

(a) To advise the General Assembly on the scope, results and cost effectiveness of audit and to provide comments to the General Assembly on the workplans of the entities that audit the Secretariat;

(b) To meet with the entities that audit the Secretariat and with management, as required, to discuss any matters that the Committee or those groups believe should be discussed collectively or privately with the Committee;

(c) To advise the General Assembly on progress made to enhance the compliance of management with internal and external audit recommendations;

Board of Auditors

(d) To discuss with the Board of Auditors and management the scope, results and any significant findings in its audit reports and to receive updates from management on action taken;

(e) To submit to the General Assembly, upon its request, the qualifications and criteria for the selection of candidates for membership of the Board of Auditors;

Internal Oversight

(f) To assess whether the Office of Internal Oversight Services is adequately resourced and continues to have appropriate standing within the United Nations;

(g) To review the budget proposal of the Office of Internal Oversight Services and make recommendations to the General Assembly;[a]

[a] The formal report of the Independent Audit Advisory Committee to the General Assembly on the budget proposals of the Office of Internal Oversight Services should be made available prior to the consideration of the budget proposal by the Advisory Committee on Administrative and Budgetary Questions and should then be submitted to the General Assembly together with the recommendations of the Advisory Committee on Administrative and Budgetary Questions.

(h) To challenge the basis for the internal audit programme with the Under-Secretary-General for Internal Oversight Services;

(i) To advise the General Assembly on the effectiveness of the Office of Internal Oversight Services;

Management of risk and internal controls

(j) To advise the General Assembly on the overall effectiveness of risk management procedures after consulting with management;

(k) To advise the General Assembly on the overall effectiveness of the system of internal control, including financial, operational and compliance controls;

(l) To address any significant findings, fraud, deficiencies in internal control or similar issues and to review management responsiveness to oversight findings and recommendations;

(m) To advise the General Assembly on the overall effectiveness of the United Nations whistle-blowing process as it impacts the overall integrity of the financial statements;

Financial reporting

(n) To advise the General Assembly on the integrity of the audited financial statements of the United Nations and any significant financial reporting observations contained in them;

(o) To consider the appropriateness of accounting standards and disclosure practices and to assess changes in accounting standards and the degree of risk in the underlying accounting principles and estimates;

Other

(p) To evaluate or request a peer review of its own performance on a regular basis.

Membership

3. The Committee shall comprise five members. The criteria for membership, including qualification and independence requirements, are set out in the appendix.

Meetings and reporting

4. The Independent Audit Advisory Committee may adopt its own rules of procedure, which shall be communicated to the General Assembly. The Committee shall meet at least four times per year, in coordination with the relevant activities of the United Nations and the General Assembly. The Committee shall seek to work on the basis of consensus and shall maintain records of its meetings. The quorum shall be any three members of the Committee.

5. The main output of the Committee shall be in the form of an annual report to the General Assembly containing the advice of the Committee to the General Assembly and describing its work in discharging its responsibilities. The Committee

shall also report key findings and matters of significance to the General Assembly at any time. The Chairperson of the Committee shall attend hearings to respond to any questions of Member States on the activities and findings of the Committee. The Chairperson may also brief the Secretary-General periodically on the key findings of the Committee.

Conditions of service

6. Members will be remunerated by the United Nations for fulfilling their role on the Committee and shall serve three-year, non-renewable terms, with the exception of two of the first five members of the Committee, who shall be elected to serve for four years to facilitate continuity.

Review of the terms of reference

7. The Committee shall review, at least every three years, the adequacy of its present terms of reference and, where necessary, propose changes to the General Assembly for consideration and approval. The terms of reference and mandate of the Committee shall be subject to periodic review and renewal by the General Assembly.

Secretariat support

8. The Committee shall be supported by a dedicated secretariat that will operate with autonomy similar to that of the secretariats of the Advisory Committee on Administrative and Budgetary Questions and the International Civil Service Commission.

Appendix

Criteria for membership of the Independent Audit Advisory Committee

Experience, qualifications and independence

1. All members of the Committee must be independent of the Secretariat of the United Nations, of the Governments of Member States and of the Board of Auditors. Members must also be free from any material relationship with the Secretariat.

2. All members must have recent and relevant senior-level financial, audit and oversight-related experience, preferably including experience as a member of an audit committee.

Identification and selection

3. Members are selected by the General Assembly from a compendium of at least 10 suitably qualified candidates identified through a rigorous and transparent process, resulting from a technical assessment of the candidates, against the qualification, experience and independence criteria, by an independent international organization of appropriate stature.

Other responsibilities

4. Each Committee member shall quickly acquire an understanding of his or her detailed responsibilities; the functions, operations and risks of the Secretariat; and the terms of reference governing internal oversight[a] and external audit of the Secretariat.[b]

[a] See General Assembly resolutions 48/218 B and 54/244; and the Secretary-General's bulletin on the organization of the Office of Internal Oversight Services (ST/SGB/1998/2).

[b] See article VII and the associated annex of the Financial Rules and Regulations of the United Nations.

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Report of the Economic and Social Council

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Information and communication technologies for development

Macroeconomic policy questions

Follow-up to and implementation of the outcome of the International Conference on Financing for Development

Sustainable development

Implementation of the outcome of the United Nations Conference on Human Settlements (Habitat II) and strengthening of the United Nations Human Settlements Programme (UN-Habitat)

Globalization and interdependence

Eradication of poverty and other development issues

Operational activities for development: operational activities for development of the United Nations system

Follow-up to the outcome of the Millennium Summit

United Nations reform: measures and proposals

Letter dated 15 March 2007 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the final communiqué adopted by the forty-first Meeting of the Chairpersons/Coordinators of the Chapters of the Group of 77, held in Rome on 26 and 27 February 2007 (see annex).

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On behalf of the Group of 77 and China, I would appreciate it if the present letter and its annex could be circulated as a document of the sixty-first session of the General Assembly, under agenda items 42, 47, 50, 51, 52, 53, 54, 55, 57, 58, 113 and 149.

(*Signed*) Munir **Akram**
Ambassador
Permanent Representative of Pakistan to the United Nations
Chairman of the Group of 77

Annex to the letter dated 15 March 2007 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General

Final communiqué adopted by the forty-first Meeting of the Chairmen/Coordinators of the Chapters of the Group of 77

Rome, 26 and 27 February 2007

1- We, the Chairmen/ Coordinators of the Chapters of the Group of 77, meeting in Rome from 26 to 27 February 2007, under the Chairmanship of Ambassador Munir Akram, Permanent Representative of Pakistan to the United Nations and Chairman of the Group of 77 in New York, have unanimously adopted the following communiqué:

2- We are meeting at a time of momentous change, which poses daunting challenges but also offers great opportunities to the developing countries. Globalization is accelerating. Economic and social imbalances are growing. The role and importance of the developing countries in the world economy is significantly enlarged, with some of them serving as the major drivers of global economic growth. The G-77 and China are determined to act collectively to realise the right to development for all peoples.

3- We have made important strides during the past few years in building on the normative framework for global development cooperation established through the commitments made at the major UN Summits and Conferences. Securing the effective and full implementation of the agreed goals and commitments is the highest priority of the Group during 2007. These must address the fundamental sources of poverty and underdevelopment, not merely the symptoms. Resolution 60/265 on the follow-up to the development outcome of the 2005 World Summit, including the Millennium Development Goals (MDGs) and the other internationally agreed development goals (IADGs), adopted by the General Assembly last year, provides a good legislative framework for pursuing a more structured and coherent approach to implementation of the MDGs and the IADGs. Building on resolution 60/265, we propose to develop an intergovernmental monitoring mechanism to track and encourage the implementation of internationally agreed development goals including MDGs.

4- In this context, the following vital goals need to be pursued simultaneously:

- **First**, assuring adequate financing for development. The fulfilment of the 0.7 ODA target remains a central objective. Debt cancellation and adjustment needs to be much more broad and generous for the poorest countries. Foreign direct investment flows should be more consciously directed towards the weaker economies, through various measures, such as investment guarantee schemes. Bolder and more general efforts are required to mobilize additional development finance through innovative measures. The need felt by many developing countries to maintain large foreign currency reserves reflects a lack of trust in the international financial system which should be reformed to ensure financial stability and enlarge growth and trade.

- **Second**, a determined effort is required to revive and conclude the Doha round of trade negotiations as soon as possible. The huge agricultural subsidies and support resorted to by the rich countries must be quickly, if progressively, eliminated. Neo-protectionism must be eschewed. Trade capacity creation in the poorest countries is vital. At the same time, efforts to promote commodity price stabilization at fair levels must continue. The developing countries should retain the policy space and priority to achieve this.

- **Third**, industrial development is key to growth and employment. This would require meeting the national capacity, including energy needs and adequate non-discriminatory market access for their products.

- **Fourth**, in an increasingly knowledge-based world economy, access to technology has become a vital component of any viable development strategy. Building on the decisions of the 2005 World Summit and the World Summit on Information Society, the restrictions on technology transfer and acquisition, including under the TRIPS agreement, need to be reviewed and revised. Incentives should be provided for research, including by the private sector, into the problems of the poor which presently attract only 10 percent of research and development expenditure.

- **Fifth**, in view of the deterioration in the global environment, sustainable development should become a central policy for both the advanced and developing countries. The developing countries contribute the least to environmental degradation but are affected the most. Global warming and environmental disasters are a growing reality. Efforts are required to revive implementation of Agenda 21 and Rio principles and paragraph 169 of the 2005 World Summit Outcome including preservation of biodiversity and addressing the crisis of urbanisation. Without this the MDGs will not be achieved.

- **Sixth**, it is now essential to evolve agreed approaches to the issue of migration and development. The recent High-Level Dialogue on International Migration and Development should lead to more active international cooperation and a coherent approach to enhance the development benefits of migration and reduce its negative political and human rights dimensions.

5- We welcome the decision of the General Assembly to hold a follow-up International Conference on Financing for Development in Doha, Qatar in the second half of 2008. Meanwhile, UNCTAD XII to be held in Accra, Ghana, in 2008, will provide a good opportunity to reiterate our commitment to the agreed goals including the Millennium Development Goals and the Global Partnership for Development.

6- We also need to revitalize the dialogue between G-8 and G-77. This is critical in view of the widening trust deficit between the developed and developing countries, which has emerged as a major impediment to a stable economic order and critical challenge to the UN today. Pakistan is committed, as G-77 Chair, to contribute to such dialogue with the G-8, consistent with the mandates of the South Summits.

7- We attach high priority to the reform of the United Nations and other international institutions to enhance their ability to respond to the current and future challenges affecting the international community, in particular the developing countries. The G-77 should take the lead in promoting the Right to Development on an equal footing with other human rights and a process should be initiated for this purpose.

8- We emphasize that the reform process should strengthen the UN in its central role in promoting effective multilateralism and multilateral solutions to current and future global challenges, in strengthening the Organization's substantive capacity to fully promote and implement the principles and purposes of the UN Charter, and improving democratic decision-making and transparency in consultative processes on all issues. It should safeguard the principle of sovereign equality of Member States in administrative, financial and budgetary oversight and enhance the efficiency and effective implementation of all legislative mandates. Importantly, the reform process should strengthen accountability in the UN in the human resource management, procurement, and other financial and administrative affairs. The final result of the exercise should be to ensure that the Organization is able to implement the entire range of its mandates more effectively and efficiently. The voice of every Member State must be heard and respected, irrespective of their budgetary contributions to the Organization.

9- We reiterate the need for the UN to develop its full potential to address urgent and serious economic and social problems facing developing countries, including in the field of international economic cooperation.

10- In this regard, we reaffirm the role of the Economic and Social Council (ECOSOC) as the principal body for the promotion of development cooperation, coordination, policy making, review and dialogue on international economic issues and for making recommendations on issues of economic and social development.

11- In its functions as a biennial Development Cooperation Forum, ECOSOC should address: one, multilateral cooperation, i.e., that involving the United Nations agencies, funds and programmes; BWIs; two, bilateral cooperation, i.e., with developed countries partners (OECD/DAC); and three: South-South cooperation. Our endeavour should be to use the Annual Ministerial Review to identify the gaps, shortcomings and successes, both at the national level and development partners level, and to further develop policy recommendations to advance the implementation process.

12- It is vital to improve the governance of the Bretton Woods Institutions (BWIs) to secure a greater and effective participation of the developing countries. The IMF should be restructured to provide access to resources to those developing countries which need it most. It should preserve financial stability and enlarge growth and trade. We support the increase in quotas of developing countries which should not be at the expense of other developing countries. The World Bank should focus on areas of greatest priority to the developing countries, e.g., education, infrastructure, agriculture, health and building national institutions.

13- We look forward to the discussion of the High-level Panel on UN System-wide Coherence report entitled: "Delivering as One". We note that 8 "Pilots" of one-country approach are experiments and should be aligned with national priorities.

In this context, it is vital, where required, to ensure that recipient Governments have the capacity to freely determine their own development strategies and priorities. Also, there cannot be a one-size fits all approach. While the UNDP's lead role is essential, the sectoral expertise and specialization of UN agencies should be preserved. The harmonization of the business practices of the UN funds and programmes and the specialized agencies will serve to increase coherence and efficiency. Greater coherence of policy orientations and operational activities and business practices of the UN system would enhance its effectiveness and efficiency and attract greater resources. However, several recommendations of the report require further in-depth consideration both by Member States and among the UN agencies. There are several other issues, not fully covered in the report which need to be addressed such as the quality and quantity of financial resources for operational activities, core and non-core resources, effective intergovernmental governance and coordination and cooperation with the BWIs and bilateral donors.

14- We note UNDP's role to support dialogue on the recommendations of the High-level Panel on UN System-wide Coherence report. UNDP has also continued its support to the G-77 effort through the Special Unit for South-South Cooperation and through its universal representation in developing countries, as well as through its programmes to advance the development objectives of the G-77.

15- UNCTAD has a symbiotic relationship with the Group of 77. The Group will continue to support its broad mandate and to utilize its expertise and potential to advance the agenda and objectives of the developing countries, including the least developed countries.

16- We note the three Rome-based organizations – FAO, WFP and IFAD – are working together within their respective mandates to advance the agreed development objectives in the agricultural field, especially the vital first MDG which calls for the elimination of hunger and poverty. They also express concern at the deteriorating financial situation of FAO.

17- We reaffirm our full support for the mandate of UNIDO which has become a more focused, effective and efficient organization for developing countries, more capable of delivering concrete results and providing valuable contributions to the achievement of the internationally agreed development goals. UNIDO has sharpened its technical cooperation activities on three themes, poverty reduction through productive activities, trade capacity building and energy and environment, which directly respond to international development priorities.

18- The UNEP, UN-HABITAT and other environmental organizations need to enhance coordinated efforts to implement their respective mandates. Instead of further examination of environmental governance, the provisions of paragraph 169 of the 2005 World Summit Outcome document should be speedily implemented.

19- Urbanization is an irreversible process. We support the revitalizing of the UN-HABITAT and its agenda to address water and sanitation issues. We also support its commitment to slum upgrading in an integrated manner and to further address the strategic links between sustainable human settlements and the reduction of urban poverty in the developing countries.

20- We stress the need to further advance and fully implement the Bali Strategic Plan for Technology Support and Capacity Building, including through the South-South Cooperation Mechanism.

21- We stand in full support of the position of the Group of 77 and China on UN Reform, under the able leadership of Pakistan as Chair country of the Group of 77, in defending the interests of developing countries and ensuring the successful outcome of the reform process as well as safeguarding the integrity and Charter role of the General Assembly in this important process in accordance with decisions and guidance by the Heads of State or Government of the Group of 77 at the Second South Summit held in Doha, Qatar, from 12 to 16 June 2005.

22- We view South-South cooperation as the arena offering the most exciting opportunities for the Group. It is a crucially important tool for developing and strengthening the economic independence of developing countries and for achieving development as one of the means of ensuring an equitable global economic order. In this regard, we are pleased to note the emerging dynamic economies of the South. We are also encouraged by progressive trends in South-South cooperation, especially in the areas of trade and investment. The recent meetings and initiatives, including the South America-Arab Summit, the New Asian-African Strategic Partnership in 2005 and China-Africa Summit in 2006 have underlined a strong commitment among developing countries to maintain and enhance this momentum. The economic dynamism of the South augurs well for our collective self-reliance through trade, investment and technological cooperation.

23- We, however, note that despite these promising trends, developing countries are confronting a number of challenges, in particular the challenge of transforming the economic dynamism of the South into sustainable South-South and international cooperation, as well as of spreading its fruits to all developing countries and regions across the board.

24- We should actively exploit our existing and potential economic complementarities and intensify our efforts to expand, accelerate and initialize these trends. We may consider reviving and reinvigorating the South's trade and commerce organizations; promote greater interaction with the private sector; prepare a list of MDG-based research and development projects for financing; promote coordination between the South's development funds and programmes, e.g., through a G-77 Development Assistance Committee; establish a mechanism for coordination among G-77 "Think Tanks" and development policy institutions. We may also consider setting up an Eminent Persons Group to further elaborate the "South Platform" formulated at the initiative of Jamaica, Chair country of the G-77 for 2005. To promote these and other aspects of South-South cooperation, we need a strengthened G-77 Secretariat as provided for in the Havana Programme of Action adopted by the First South Summit in 2000 and reaffirmed by the Doha Plan of Action adopted by the Second South Summit in 2005. We look to the UN system to provide support to the Group, both financial and personnel. We also welcome the support expressed by the Chairman of the G-24 to explore the possibility of expanding the G-24 research programme in order to cover issues of critical importance to all G-77 Chapters. In this context, we welcome the steps undertaken by the G-77 and G-24 in order to harmonise developing countries' positions at various international fora and to strengthen further the negotiating capacity of the South.

25- We welcome the support being extended to developing countries by several other developing countries and their institutions including the OPEC Fund for International Development, the Islamic Development Bank and other similar South institutions.

26- We stress the need to consolidate the ongoing efforts to further increase resources, and to support the implementation of the relevant recommendations of the Second South Summit related to South-South cooperation, particularly the mandate referred to in paragraph 110 of the Doha Plan of Action regarding the strengthening of the Special Unit for South-South Cooperation as a separate entity and a focal point for South-South cooperation within the United Nations system as reaffirmed by General Assembly resolution 58/220 of 23 December 2003, so as to enable it to carry out its full responsibilities. We do sincerely hope that such mandate is fulfilled within the context of the ongoing reform process.

27- We believe that the South must be adequately supported by more inclusive public-private partnership mechanisms in order for developing countries to effectively participate in the world economy and have a fairer share of the benefits of globalization. In this context, we call on the UN system to join our ongoing efforts and assist in providing support in order to strengthen, harmonize and complement the strategic partnerships that have been built up through South-South cooperation.

28- In this regard, we welcome the preparation of a multi-year plan of action on South-South Cooperation on Biodiversity, to be submitted to the ninth session of the Conference of the Parties to be held in May 2008 in Bonn, Germany, as well as the brainstorming session held in Montreal, Canada on 6-8 November 2006.

29- In this context, we welcome the establishment of the Consortium on Science, Technology and Innovation for the South (COSTIS), and we stress its importance as a viable instrument in the Trieste System family for addressing the global issues of science, technology and innovation as well as promoting economic development in the South. We call upon the international community for financial and technical support in order to strengthen and consolidate the Consortium's activities. We are confident that COSTIS will bring an important contribution in assisting developing countries in their efforts to promote educational, scientific and technologic progress.

30- We welcome the generous offer by the Nairobi Chapter to host the 42nd meeting of the Chairmen/Coordinators of the Group of 77 Chapters.

31- We wish to express our deep appreciation and gratitude to the excellent arrangements made by the Rome Chapter in hosting the 41st meeting of the Chairpersons/Coordinators of the Group of 77.

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Security Council

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General Assembly
Sixty-first session
Agenda items 13 and 14

The situation in the Middle East

Question of Palestine

Security Council
Sixty-second year

Identical letters dated 20 March 2007 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council

I write to inform you of the highly alarming number of terror attacks carried out by Palestinian terrorists operating in the Gaza Strip over the past two weeks.

From Monday, 5 March 2007, until Monday, 19 March 2007, 13 rockets were fired by Palestinian terrorists in the Gaza Strip at Israeli communities in the south. These rocket attacks included the launching of Qassams and mortar shells, six of which detonated in Israeli territory.

During a rocket attack on Tuesday, 6 March 2007, four civilians were lightly injured, and countless others treated for shock and trauma.

Just yesterday, Monday, 19 March 2007, an Israeli working for Israel Electric Corporation was wounded by a Palestinian terrorist sniper. He was conducting repair work at a fuel depot in Israel, north of the Karni commercial crossing.

The continuation of Palestinian terror is a grave violation of the agreed upon ceasefire between Prime Minister Ehud Olmert and President Mahmoud Abbas from late November. Palestinian terror threatens the viability of sustainable peace and security in our region. The Hamas government must adhere to the three conditions of the international community, and put an end to the violence and terror against Israel.

I should be grateful if you would arrange to have the present letter circulated as a document of the General Assembly under agenda items 13 and 14.

(*Signed*) Daniel **Carmon**
Ambassador
Deputy Permanent Representative

07-27709 (E) 210307

United Nations A/61/815

General Assembly

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Sixty-first session
Agenda item 128
Administration of justice at the United Nations

Report of the Redesign Panel on the United Nations system of administration of justice

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Redesign Panel on the United Nations system of administration of justice (A/61/205) as well as the related comments of the Secretary-General (A/61/758). The Committee also had before it the following reports of the Secretary-General on administration of justice in the Secretariat: activities of the Ombudsman (A/61/524); implementation of resolution 59/283 (A/61/342); and outcome of the work of the Joint Appeals Board during 2004 and 2005 and statistics on the disposition of cases and work of the Panel of Counsel (A/61/71). During its consideration of the item, the Committee met with the Under-Secretary-General for Management, the Assistant Secretary-General for Human Resources Management, the United Nations Ombudsman and other representatives of the Secretary-General, who provided additional information and clarifications.

2. The Advisory Committee was provided with a copy of the report on the seventh special session of the Staff-Management Coordination Committee, which took place in Nairobi from 29 January to 6 February 2007 (SMCC/SS-VII/2007). The Committee met with the President and other representatives of the Staff Union of New York, at their request, who presented their views to the Committee.

3. The report of the panel of external and independent experts (Redesign Panel) was submitted on 28 July 2006 pursuant to General Assembly resolution 59/283.

4. The Secretary-General's comments on the recommendations of the Redesign Panel, along with the estimate of time and resources needed for their implementation, were submitted on 23 February 2007. In the preparation of his comments, the Secretary-General held consultations with managers and staff representatives of the Secretariat and the United Nations funds and programmes.

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The Secretary-General indicates that his note also reflects his consultations with the Staff-Management Coordination Committee and informs the General Assembly of the instances where he endorses or differs from the modifications agreed by the Committee.

5. The Redesign Panel proposes the establishment of a new, decentralized, professional and independent system of internal justice for the United Nations and its funds and programmes at both the informal and formal levels. It makes recommendations in a number of areas, including the following:

(a) Establishment of a new Office of Administration of Justice for the United Nations and its funds and programmes;

(b) Strengthening of the informal system of internal justice, essentially through the integration and decentralization of the existing offices of the Ombudsman in the Secretariat and the funds and programmes, the monitoring of maladministration and the mediation of disputes;

(c) Establishment of a new two-tiered system of formal justice, comprising a first-instance decentralized Tribunal (United Nations Dispute Tribunal) and a second-level appellate Tribunal (United Nations Appeals Tribunal), both composed of independent, professional judges with the power to issue binding decisions. It is proposed to rename the existing United Nations Administrative Tribunal as the United Nations Appeals Tribunal and to amend its Statute to include a new appellate jurisdiction;

(d) Extension of the scope and jurisdiction of the Organization's system of internal justice;

(e) Establishment of a professionalized and decentralized Office of Counsel to provide advice and legal representation for staff members and the Secretary-General.

6. The Redesign Panel also makes observations and recommendations on such issues as accountability, transparency and training that cut across all components of the system of internal justice.

7. Finally, the Redesign Panel recommends that the proposed new justice system be established by a resolution of the General Assembly and, subject to such approval, to become operational on 1 January 2008, with a period of transition.

II. General observations

8. The issue of administration of justice has been of long-standing concern to the Advisory Committee, which commented on the necessity for reform as far back as the fortieth session of the General Assembly.[1] **The Committee welcomes the report of the Redesign Panel, as well as the note by the Secretary-General. It believes that the proposals constitute an important step in the reform of the system of internal justice of the United Nations.**

[1] *Official Records of the General Assembly, Fortieth Session, Supplement No. 7* (A/40/7), paras. 67-73.

9. The Advisory Committee notes that the Secretary-General agrees with most of the recommendations of the Redesign Panel with some modifications and that he also endorses most of the changes proposed by the Staff-Management Coordination Committee. The Committee's remarks are presented in the same sequence as that of the report of the Redesign Panel to the extent possible so as to facilitate the General Assembly's consideration of the issues and recommendations contained in that report.

10. The Advisory Committee also notes that the Secretary-General's comments do not address all of the recommendations of the Redesign Panel and that an intersessional working group was established by the Staff-Management Coordination Committee to discuss issues relating to disciplinary proceedings (see A/61/205, paras. 24, 27, 161 and 163). The Secretary-General will inform the General Assembly of the outcome of these deliberations and provide his comments on any subsequent actions to be undertaken in respect of the disciplinary process.

11. Furthermore, deadlines for filing complaints to the United Nations Dispute and Appeals Tribunals, as set out in paragraphs 88, 89 and 95 of the Redesign Panel report, will be elaborated in the draft statutes for the respective Tribunals that will be submitted to the General Assembly for approval. The Advisory Committee notes that the Sixth Committee is holding a resumed session in March 2007 to continue its consideration of administration of justice at the United Nations. In the sections below, the Advisory Committee points to a number of issues that, in its view, merit further examination and clarification, on which it recommends that the Sixth Committee provide guidance to the General Assembly. The Advisory Committee points out that the outcome of these consultations and deliberations may have an impact on the proposals for the redesign of the system of internal justice.

12. As indicated in paragraph 44 of the note by the Secretary-General, the redesigned justice system would apply to the United Nations and its funds and programmes, and this would involve sharing the costs of the Office of Staff Legal Assistance, the Office of the Ombudsman, the Office of Administration of Justice and the Tribunals. The note also indicates that cost-sharing for the current system is based on workload statistics for judgements issued and cases disposed.

13. The Advisory Committee points out that the proposed system of internal justice would entail a considerable change from current practice in all its aspects: the replacement of the voluntary peer review by a professionalized two-tier judicial system that issues binding decisions; the enlargement of the informal system to include field operations and non-staff personnel; the integration and decentralization of the system across several organizations; an increased focus on the informal resolution of disputes; and a considerable increase in the expected caseloads. The current workload statistics are therefore not realistic indicators of the future utilization of the system, nor of the resulting resource requirements. **The Committee recommends that additional efforts be made to identify and quantify the cost parameters underlying the related resource requirements. It considers that more specific cost-sharing arrangements have to be developed and agreed upon by the participating organizations before the proposed system of internal justice is implemented.**

III. A unified system

Scope and jurisdiction

14. The Advisory Committee notes that the Redesign Panel expressed its concerns with respect to the limited access to the current system of internal justice, which is applicable only to United Nations staff members as stipulated by the United Nations regulations and rules. The Panel proposes extending the system to any person appointed by the Secretary-General, the General Assembly or any principal organ to a remunerated post, or performing personal services under contract with the United Nations, such as consultants and locally recruited personnel of peacekeeping missions (see A/61/205, para. 156 and notes to annex I; and A/61/758, para. 12). The Panel cites paragraph 19 of General Assembly resolution 59/283 in which the Assembly requested that the Office of the Ombudsman continue and expand its outreach activities, in particular to local, national and General Service staff, in order to facilitate equal access and awareness-raising, bearing in mind the structure, activities and operational environment of the Organization, considering it a clear guideline towards more comprehensive coverage and expansion of the system to other categories of personnel.

15. A suggested modification for extending the definition of staff in the Statute of the United Nations Administrative Tribunal is provided in the notes to annex I to the report of the Redesign Panel. In paragraph 157 the Panel proposes that consultations be held with the United Nations Joint Staff Pension Fund and other bodies subject to the administrative jurisdiction of the Administrative Tribunal with a view to amending its Statute to expand the definition of staff, to enable it to grant the relief it considers appropriate and otherwise to bring it into harmony with the Statute of the Administrative Tribunal of the International Labour Organization (ILO) (see also A/61/758, para. 35).

16. In paragraph 10 of his note, the Secretary-General concurs with the proposals to broaden the scope of the new system, indicating that the following individuals would have access to the informal and formal system of justice:

> Staff members, former staff members and persons making claims in the name of deceased staff members and all persons who perform work by way of their own personal service for the Organization, no matter the type of contract by which they are engaged, but not including military or police personnel in peacekeeping operations, volunteers (other than United Nations Volunteers), interns, type II gratis personnel (as defined in ST/AI/1999/6), or persons performing work in conjunction with the supply of goods or services extending beyond their own personal service or pursuant to a contract entered into with a supplier, contractor or consulting firm.

17. The Secretary-General further indicates that, although the full impact of the enlargement of the scope of the justice system on the actual number of cases arising in both the informal and formal systems is not yet possible to estimate, during 2006, approximately 35,000 individuals were engaged by United Nations funds and programmes under a variety of contractual arrangements (see A/61/758, para. 10, footnote 2), commonly referred to as holders of special service agreements. Consequently, the Advisory Committee was informed that it is estimated that the expanded new system would provide recourse to some 90,000 individuals, including

more than 30,000 staff employed in field operations and up to 35,000 contractors not covered under the current system.

18. The Advisory Committee requested additional information on the rationale for the proposed extension of the scope of the system of internal justice to non-staff as well as on the current arrangements for resolving disputes in those cases. It was informed that such cases were subject to the rules of arbitration of the United Nations Commission on International Trade Law and that for the period from 1996 to 2000, 16 cases had been referred to the Office of Legal Affairs. Information on cases that were not processed by the Office of Legal Affairs was not available. The Secretary-General concurred with the recommendation of the Redesign Panel that persons working side by side with staff should also have a meaningful means of redress in the case of the violation of their rights, and that such means should be offered by any good employer.

19. The Advisory Committee was also informed that, should the General Assembly agree with the expansion of the scope of the justice system as recommended by the Redesign Panel, the dispute resolution clause currently contained in the contracts of consultants and individual contractors would be modified accordingly.

20. The Financial Regulations and Rules of the United Nations draw a clear distinction between staff and non-staff. Services of staff members are secured through recruitment and appointment, while those of consultants and individual contractors are based on very different selection criteria, procedures and contractual arrangements. For consultants and individual contractors, the mechanisms for resolving disputes between parties are, of necessity, specific to the terms of each type of contract.

21. **The Advisory Committee notes that no compelling reasons or impact analysis were provided, either by the Secretary-General or the Redesign Panel, to widen the scope of coverage of the system. The Committee considers therefore that the system of internal justice should continue to apply only to those individuals covered by the Staff Regulations and Rules of the United Nations. The Committee is of the opinion that, should the General Assembly decide to consider expanding the scope of the system, a further in-depth analysis would be required.**

Office of Administration of Justice

22. The Redesign Panel recommends the establishment of an Office of Administration of Justice, which will have overall responsibility for the administrative coordination of the United Nations system of internal justice, including the supervision and coordination of the registries and the Office of Counsel as well as the management of financial and budgetary matters for the formal justice system. The Panel considers that a separate Office of Administration of Justice, with operational and budgetary autonomy, would ensure the institutional independence of the system of internal justice (see A/61/205, para. 124).

23. The recommended staffing of the Office of Administration of Justice is contained in annex III to the report of the Redesign Panel. Resource requirements, estimated on the basis of the proposals of the Redesign Panel and modified by the

Staff-Management Coordination Committee, are provided in the note by the Secretary-General (see A/61/758, paras. 38-45, annex III).

24. **The Advisory Committee has no objection to the establishment of the Office of Administration of Justice. Given the additional steps still to be taken on this matter, the Committee is not yet in a position to make any pronouncements on the specific staffing proposals, including the numbers, grading structure and functions to be performed and resource requirements presented by the Secretary-General. It therefore recommends that consideration of these requirements be deferred, pending the adoption by the General Assembly of further decisions on the system of internal justice (see paras. 10-13 and 21 above).**

25. **The Advisory Committee agrees with the proposal of the Secretary-General to rename the Office of Counsel as the Office of Staff Legal Assistance (A/61/758, para. 9).**

IV. The informal system

Office of the Ombudsman

26. The Redesign Panel recommends a merger of the existing United Nations Ombudsman, the United Nations Development Programme/United Nations Population Fund/United Nations Children's Fund/United Nations Office for Project Services Ombudsperson and the Mediator of the Office of the United Nations High Commissioner for Refugees into an integrated new Office of the Ombudsman with a centralized administration at Headquarters and largely decentralized operations, to provide easier access and quicker response (see A/61/205, para. 164). It recommends that the Office of the Ombudsman be strengthened by combining the functions of formal mediation with proactive monitoring of maladministration, that a Mediation Division be established within the Office of the Ombudsman and that the panels on discrimination and other grievances be abolished (see ibid., paras. 166-168). The Panel also recommends that Ombudsmen be appointed within the Office of the Ombudsman to serve peacekeeping missions with large numbers of civilian staff with the provision being made under the missions' budgets (see ibid., para. 171).

27. The Secretary-General agrees with those recommendations (see A/61/758, paras. 12-15). He proposes an additional regional Ombudsman's office in Dakar and in the peacekeeping operations in the Democratic Republic of the Congo (United Nations Organization Mission in the Democratic Republic of the Congo), Liberia (United Nations Mission in Liberia) and the Sudan (United Nations Mission in the Sudan) (see ibid., para 14).

28. **The Advisory Committee agrees with these proposals, bearing in mind what is stated in paragraphs 10 to 13, 21 and 24 above. It recommends that a set of objective criteria, in addition to that of the number of civilian staff proposed by the Redesign Panel, be developed and documented for determining which peacekeeping missions should have an ombudsman.**

29. The Redesign Panel recommends that the Ombudsmen be appointed by the Secretary-General or the executive heads of the funds and programmes, selected

from a list of candidates constituted by a selection committee composed of a staff representative, a management representative and two distinguished outside ombudsmen, one appointed by the staff and one by management, and chaired by a third distinguished Ombudsman appointed jointly by the Secretary-General and the executive heads of the funds and programmes (see A/61/205, para. 165 and A/61/758, para. 13).

30. **The Advisory Committee emphasizes the need to ensure that qualification requirements are met and to promote transparency in the nomination and selection processes. The Committee stresses the importance of setting clear, relevant and verifiable qualifications and recommends that the selection committee develop procedures to verify the qualifications of prospective candidates. Due attention should be paid to ensuring wide geographic representation, both of the members of the selection committee and the candidates placed on the lists presented to the executive heads for selection. Furthermore, efforts should be made to ensure that the opportunities for those positions are widely circulated in order to ensure a large pool of potential candidates from which to draw, as well as to maintain the technical nature of the selection committee.**

31. **The Advisory Committee emphasizes the need for ombudsmen to encourage staff to seek resolution through the informal system.**

V. The formal system

Management evaluation

32. The Redesign Panel proposes that administrative review before action in the formal justice system be abolished (A/61/205, para. 158). The review is currently carried out by the Administrative Law Unit within the Office of Human Resources Management at Headquarters, regardless of where the staff member is posted. The Secretary-General agrees that the Administrative Law Unit has not fulfilled its function and suggests that this is due mainly to under-resourcing, which leads to unacceptable delays.

33. The Secretary-General proposes instead to introduce a new management evaluation function. The evaluation would constitute the first, mandatory step of the formal proceedings. It would be designed to avoid unnecessary litigation by permitting management an early opportunity to correct any errors or take an appropriate remedy where it found that a decision was improperly taken (see A/61/758, paras. 29-31). The Secretary-General indicates that staff members would apply directly to the Secretary-General or the executive head of a separately administered fund or programme for an evaluation of the contested administrative decision and that a reasoned response would be provided in 45 days. He also states that in order to avoid the perception of conflict of interest, management evaluations would be carried out by a separate unit in the Department of Management. The Secretary-General considers that this step would constitute an essential new tool for holding managers more accountable, since the results would be reflected in their performance appraisal system records and performance compacts with the Secretary-General. Furthermore, by reducing the number of cases that go to litigation, it would make the system more cost-effective.

34. The Advisory Committee has consistently supported all measures that facilitate the amicable settlement of disputes and reduce litigation. **The Committee stresses, in this regard, the importance of the general principle of exhausting administrative remedies before formal proceedings are instituted.** It also agrees that the introduction of the results of such management evaluations in the performance records of managers would constitute a new element of accountability (see General Assembly resolution 59/283, para. 32).

35. At the same time, the proposed management evaluation has similarities with the administrative review process with respect to the purpose of the evaluation, what is expected to be accomplished and the placement of the unit responsible for carrying out the evaluation within the Department of Management. As the recommendation of the Redesign Panel with respect to the abolition of the administrative review was clear and unambiguous, it is important that concerns about similarities between that process and the proposal of the Secretary-General for a management evaluation be addressed.

36. **The Advisory Committee considers that the current proposal of the Secretary-General to place the management evaluation unit in the Department of Management presents a risk of a perception of conflict of interest. Responsibility for the management evaluation function should not lie with those whose policies or decisions are, in fact, under scrutiny. In effect, the management evaluation unit would be examining administrative decisions for which authority flows from the Secretary-General to the Department of Management, which in turn delegates some functions to the remaining departments. It is precisely those decisions that are contested and are the object of the dispute.**

37. **Furthermore, one of the main findings of the Redesign Panel was that the staff of the Organization have little or no confidence in the system as it currently exists. Accordingly, the Advisory Committee considers it essential to promote full confidence in the new system of internal justice by ensuring the independence and impartiality of this process. Safeguards should be provided against undue pressure being brought on staff members availing themselves of the new system.**

38. **Subject to these concerns, the Advisory Committee sees merit in a management evaluation function. It agrees that every effort should be made to promote the informal resolution of disputes to avoid unnecessary litigation. The Committee also agrees that the Administration should be offered an opportunity to redress faulty administrative decisions. The Committee recommends that the General Assembly consider placing the management evaluation unit elsewhere in the Organization, for example, in the Executive Office of the Secretary-General. With respect to the responsibility for formulating decisions on appeals, the Committee recalls paragraph 17 of General Assembly resolution 59/283 in which the Assembly decided that measures should be taken to eliminate the appearance of conflict of interest, and towards this end requests the Secretary-General to proceed with the transfer of the responsibility for formulating decisions on appeals from the Department of Management of the Secretariat to the Office of the Secretary-General.**

39. **Furthermore, the Advisory Committee emphasizes that the management evaluation unit would have to be accorded operational independence so as to ensure its objectivity and efficiency. The Secretary-General should be requested to assess the feasibility and other consequences of this option and to submit a report thereon to the General Assembly.**

40. **The timeliness of the proceedings is also a very valid concern. In that context, the Advisory Committee considers that the management evaluation function should be completed in a shorter time frame than the proposed 45 days and it recommends that a reasoned response be provided promptly, with the period not to exceed 30 days.**

A two-tiered system of formal justice

41. The Redesign Panel recommends the establishment of a two-tiered system of formal justice, comprising a first-instance decentralized tribunal, the United Nations Dispute Tribunal, which would replace the Joint Appeals Board and the Joint Disciplinary Committees, and a second-tier appellate Tribunal, the United Nations Appeals Tribunal, created through the amendment of the statutes and the renaming of the United Nations Administrative Tribunal (see A/61/205, para. 154).

42. **The Advisory Committee sees merit in the Redesign Panel's recommendations concerning the establishment of a two-tiered system of formal justice. In this connection, it points out that the forthcoming report concerning disciplinary proceedings (see para. 10 above) may have a bearing on the proposed system.**

43. The Secretary-General agrees with these recommendations. However, he proposes that cases at the first level be decided by a panel of three judges instead of one, as proposed by the Redesign Panel. He argues that in order to reflect the multicultural nature of the Organization, representation of more than one legal system is required (see A/61/758, para. 19).

44. **The Advisory Committee is not convinced, however, that more than one judge is indeed required with respect to the decisions to be made at the first-level Tribunal.** In that context, the Committee recalls that the decisions of the United Nations Dispute Tribunal would be based essentially on the application of the rules and regulations of the United Nations and its funds and programmes. Moreover, the new system of internal justice would provide for an appellate tribunal, which would allow a recourse against decisions made at the first level. Furthermore, the Committee points out that judgements of the United Nations Administrative Tribunal are passed by a panel of three members and that the amendments proposed to article 8 of the Statute of the Administrative Tribunal provide that cases presenting significant questions of law may be referred for consideration by the entire Tribunal (see A/61/205, annex II). The Committee also notes that the Redesign Panel considers it advisable to retain some elements of peer review, with assessors sitting with judges in serious cases. **The Committee is of the view that the proposal of the Redesign Panel provides sufficient safeguards to ensure that the law is properly applied.**

45. Concerning the jurisdiction and powers of the United Nations Dispute Tribunal, the Advisory Committee notes that the Secretary-General disagrees with

some aspects of the proposals made by the Redesign Panel (see A/61/205, para. 160 and A/61/758, para. 26). **The Committee recommends that the guidance of the Sixth Committee be sought on this matter, taking into account General Assembly resolutions 51/226; 55/159; 57/307 and 59/283.**

Compensation

46. With respect to compensation, the Advisory Committee notes that the Secretary-General agrees with the recommendations of the Redesign Panel with some modifications. The Redesign Panel recommends that the United Nations Dispute Tribunal be accorded the power to order specific performance, including the setting aside of an appointment and the awarding of exemplary and punitive damages (see A/61/205, paras. 83 (a) and (b), and 169). The Secretary-General proposes that in cases challenging appointments, promotions or terminations that the Dispute Tribunal be required to set the amount of compensation to be paid as an alternative to specific performance and that appointments not be set aside. In addition, the Secretary-General proposes that the current limit of two years' salary as compensation should be removed. Punitive and exemplary damages would not, however, be awarded (see A/61/758, paras. 21 and 22). The Committee recalls General Assembly resolution 55/159, annex, article 10), on this subject. **The Committee recommends that the opinion of the Sixth Committee be sought on this matter.**

Selection and appointment of judges

47. The Redesign Panel recommends that an Internal Justice Council be established to compile lists of candidates for appointment as judges of the United Nations Dispute Tribunal by the Secretary-General and the United Nations Appeals Tribunal by the General Assembly, as well as to monitor the system (see A/61/205, paras. 173 and 174). The Secretary-General accepts those recommendations. The Internal Justice Council would consist of a staff representative, a management representative and two distinguished external jurists (one nominated by the staff and one by management) and chaired by another distinguished external jurist appointed by the Secretary-General after consultation with the other four members.

48. **It is the view of the Advisory Committee that the effectiveness of such a body will depend largely on the expertise of its members. However, from the proposals before the Committee, it is not clear how the Internal Justice Council would be constituted, the precise role it would play and the process that would be applied for the selection of its members. The Committee is concerned that very little emphasis has been placed on the legal and judicial expertise, experience and qualifications of its members, which are of paramount importance. It reiterates its comments, made in paragraph 30 above, concerning the committee for the selection of ombudsmen, about the necessity for a fair, impartial and transparent process that could capture a large pool of potential candidates with the requisite professional qualifications and that could ensure that appropriate measures for the verification of the qualifications of the candidates are in place.**

49. **Should the General Assembly decide to establish the Internal Justice Council, the Advisory Committee recommends that the Assembly request the Secretary-General to elaborate and submit for its consideration the Council's terms of reference and the criteria for selection of its members.**

50. The Advisory Committee notes that the Redesign Panel proposed that the United Nations Dispute Tribunal judges be remunerated at the Assistant Secretary-General level and that in paragraph 33 of his note, the Secretary-General proposed that the remuneration of all Dispute Tribunal judges be at the D-2 level. As recommended by the Panel, the Secretary-General agrees that United Nations Appeals Tribunal judges should receive an honorarium similar to that paid to the judges of the ILO Administrative Tribunal.

51. The Advisory Committee notes that, at this stage, it is not clear whether the work of the judges of the Dispute Tribunal will be full-time. It also notes that their workload will depend on a number of decisions to be made by the General Assembly on the system of internal justice. The Committee believes that the question of remuneration of judges of both Tribunals (the Dispute Tribunal and the Appeals Tribunal) should be considered following General Assembly action. It considers, therefore, that it is premature to take a position on these proposals and will revert to this question at a later stage.

Disciplinary matters

52. **The Advisory Committee will comment on the recommendations concerning disciplinary matters when the report of the Secretary-General on the outcome of the intersessional working group of the Staff-Management Coordination Committee is submitted (see para. 10 above).**

VI. Other

53. The Redesign Panel recommends that proceedings in the formal justice system be brought against the Organization or the relevant fund or programme, rather than against the Secretary-General or the executive heads (A/61/205, para. 172). The Advisory Committee notes that the Secretary-General shares the Panel's view (A/61/758, para. 34). **The opinion of the Sixth Committee should be sought on this matter.**

54. Training requirements for persons serving as judges, ombudsmen, legal representatives, registrars, mediators and court and office staff are outlined in paragraphs 115 to 119 of the report of the Redesign Panel, including programmes on United Nations familiarization and the unique nature of the United Nations, the new justice system, judicial mediation, court administration and conflict prevention and resolution. Outreach programmes to inform staff of the new system of internal justice are also envisaged. The Redesign Panel states that the efficacy of the proposed reforms to both the formal and informal justice systems depends on the careful education and training of the relevant personnel. In its resolution 59/283, the General Assembly also emphasizes the importance of training.

55. The Advisory Committee encourages the development of more focused and results-oriented training programmes, taking into account the lessons learned from past experiences.

Documentation

- Report of the Redesign Panel on the United Nations system of administration of justice (A/61/205)
- Note by the Secretary-General on the report of the Redesign Panel on the United Nations system of administration of justice (A/61/758)
- General Assembly resolution 59/283
- Report of the Secretary-General on the activities of the Ombudsman (A/61/524)
- Report of the Secretary-General on the administration of justice in the Secretariat: implementation of resolution 59/283 (A/61/342)
- Report of the Secretary-General on the administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2004 and 2005 and statistics on the disposition of cases and work of the Panel of Counsel (A/61/71)
- Report on the seventh special session of the Staff Management Coordination Committee held at Nairobi from 29 January to 6 February 2007 (SMCC/SS-VII/2007)